

## FIRE CHIEF CROKER IS REINSTATED

Appellate Division Decides Unanimously that His Removal from Office by Former Fire Commissioner Sturgis Was Illegal and He Will Resume His Old Position.

Corporation Counsel Delany, who Was Deposed Chief's Counsel, Now Finds Himself in Curious Position of Being Opposed to Him as City's Adviser.

Former Fire Chief Edward F. Croker, who was removed from office by Mayor Low's Fire Commissioner, Thomas Sturgis, after a sensational trial nearly two years ago, has been reinstated by the Appellate Division of the Supreme Court.

The decision is unanimous and it carries with it full payment of salary for Croker during the time he has been out of office. As the salary is \$6,000 a year this is no inconsiderable matter. Mr. Croker will resume his duties as chief on Tuesday morning.

The decision in the case follows close on the argument before the Appellate Division in the certiorari proceedings. This argument was conducted by the present Corporation Counsel, John J. Delany, who has been Croker's counsel all through his fight, but who abandoned his private practice on his accession to public office. The argument for Croker which resulted in today's decision was made by Mr. Delany less than two months ago and was the last private legal proceeding in which the Corporation Counsel took part.

### DELANY IN ODD POSITION.

Mr. Delany now finds himself in a unique position. As Corporation Counsel of the City of New York it is his duty to formulate an appeal against the decision rendered to-day, if an appeal is to be taken. That would place him in the position of fighting against his own victory, of arguing before the Court of Appeals against his own brief. The fact that the decision reinstating Croker to office is unanimous lets Mr. Delany down a little easier than if there had been a dissenting opinion. Under the circumstances he will be less liable to criticism if no appeal is taken.

The decision for Croker is written by Judge McLaughlin, Judges Van Brunt, Patterson, O'Brien and Laughlin concurring.

### JUSTICE M'LAUGHLIN'S DECISION.

Justice McLaughlin in his decision, which is long, says that a careful consideration of the entire record shows that at the time the charges were made the Commissioner entertained a decided prejudice against the relocator, which was in no way disguised. In spite of this, the Commissioner had the power to act as judge under the statute. The decision says that the very beginning of the record shows a preconceived scheme on the part of the Commissioner to interfere with the relocator in the performance of his duties. The Commissioner had the right to compel the relocator to do his duty, but he had no right to prevent him from doing his duty, which he attempted when he tried to force Chief Croker to take a vacation.

On the subject of the Park Avenue Hotel fire Justice McLaughlin writes that there is nothing in the evidence to support the findings of the Commissioner. The fair inference is that Chief Croker did all that he could reasonably be expected to do on that occasion. As to the charge of conversion of public property, Justice McLaughlin says that there is nothing in the evidence to show a wrong motive on the part of the Chief in causing fire hose to be delivered at the Polo Grounds. On the contrary, says the Court, it appears that he acted for the good of the service and with ample authority under the charter.

The other charges are disposed of in similar fashion, and in a summary of the entire case the Court says that on some of the charges on which he was found guilty Chief Croker was entitled to an acquittal and on others he was prevented from presenting a full defense by the rulings of the Commissioner. Throughout the entire trial, says the Court further, the Commissioner in his rulings and by his attitude and conclusions, manifested a prejudice and bias which affected his judgment.

Corporation Counsel Delany got news of Croker's reinstatement soon after the decision was rendered. He could hardly contain his glee.

"Well, that's justice," he said. "The opinion is unanimous, so any opinion of mine on the matter would be superfluous. Mr. Croker and I parted company on Jan. 1, since which time Frederick St. John, of No. 27 William street, has represented Mr. Croker. But of course this victory is mine, and I am very proud of it."

"It doesn't place me in the least embarrassment as Corporation Counsel. If it is deemed necessary for me to take an appeal I will take it. A lawyer can adapt himself to any circumstances. I am no different in this respect than my brethren of the bar. I assure you I could enter into a fight against the decision with the same fervor as I made the fight for Mr. Croker."

### NEWS MAKES CROKER HAPPY.

Former Chief Croker was seated at luncheon in the Broadway Central Hotel when an Evening World reporter took the news to him. The Chief dropped his knife and fork and looked happier than he has for two years.

"So I win, do I?" he said. "Well, I knew the courts would give me justice. I couldn't get it from Sturgis, but I knew the courts would give me fair play. His act in forcing me from the Fire Department was pure pique. He was the accuser in my trial and also the judge. He never gave me a chance. From the first he was determined to force me out, and he never weighed evidence or allowed fair play. I have waited patiently for justice, feeling all the time that sooner or later I would get it. If I didn't, I knew it was because there was no such thing as justice in the courts of the land."

"I'm a very happy man over this news, although, as I say, I anticipated it. I shall now go downtown and see my lawyer, Mr. St. John. What I do next depends upon him."

"Let me say that in this moment of victory I bear no man any ill will. No man in the Fire Department need look upon me as an enemy. I am to be Fire Chief again and I shall be a fair chief. I have had enough of injustice myself to ever allow me to be unjust to another. I go back with the one idea of fighting fire, fighting it to the best of my ability and insisting upon every man under me being a fireman and nothing else."

### THANKS THE EVENING WORLD.

"I want to thank the people in this city who have stood by me in my trouble and have given me their sympathy. It has been a very gratifying thing for me to see the confidence the business men, the insurance men and the citizens generally have had in me. Especially do I want to thank The Evening World for the fair and square play it has shown me from the first. At no time during the trial did The Evening World do other than the fair thing to both sides."

## COURT UPHOLDS CAR AHEAD LAW

Appellate Division Hands Down a Decision Declaring Passengers Must Be Carried to Destination Designated on Car.

MUST CHANGE ONLY TO AN INTERSECTING LINE.

Board of Aldermen, the Court Holds, Was Authorized to Pass the Ordinance. Reversing Justice Murray's Ruling.

Justices Freedman, Gildersleeve and Greenbaum, in the Appellate Term of the Supreme Court to-day handed down a decision reversing a ruling of Justice Murray in the Tenth District Municipal Court, dismissing the complaint in an action brought by the City of New York against the Interurban Street Railway Company for the collection of the penalty of \$100 for violation of the "car ahead" ordinance, adopted by the Mayor on July 22, 1902, requiring street surface railroad companies to carry passengers to any regular stopping place desired by him upon such car's route without change of cars, except for transfers to a connecting line going in another direction, or in case an accident renders compliance with the ordinance impossible.

Justice Murray held that the Board of Aldermen was not authorized to pass such an ordinance and that the provisions of the General Railroad act governed and controlled such a regulation as is provided for in the ordinance. William F. Peters, J. Arch McGovern and Alexander Saxe, in May, 1903, boarded a northbound car of the defendant about Fourteenth street, which bore a sign "Columbus Avenue." They desired to alight at One Hundredth street, Ninety-eighth street and One Hundred and Fourth street and Columbus Avenue respectively.

They were carried to Columbus Avenue and Seventy-ninth street, where they were told by the conductor to get out and take the car ahead. This they refused to do and remained in the car, which was then switched to the downtown track and taken to South Ferry, where it remained twenty minutes, and was then switched to Columbus Avenue and Fifty-ninth street.

There it was run into the barn, where it was kept for forty minutes, the three passengers still remaining in it, but which was taken out and proceeded up Columbus Avenue, carrying the three men to their respective destinations. Saxe paid the fare. When the car was returned to Columbus Avenue the conductor said the lights were not working. The defendant offered no evidence.

## MURDERER GETS MORE TIME TO LIVE

Frank Henry Burness, Who Boasted of Persons He Had Killed, Has Made an Appeal and a Stay Is Allowed.

ORSONING. N. Y., Feb. 5.—Warden Johnson, of Sing Sing Prison, to-day received word that an appeal had been taken in the case of Frank Henry Burness, who was sentenced to death by hanging in the electric chair on Monday morning next, and the execution is therefore stayed.

All preparations for the electrocution had been made and the invitations to witnesses sent out. Burness shot and killed Capt. George E. Townsend on the Bay Ridge shore, Brooklyn, on Nov. 10 last. Although at his trial he admitted his guilt, acknowledged that he had committed other murders and asked that the death sentence be quickly carried out, his counsel has now carried the case to the Court of Appeals. Pending a decision the appeal acts as a stay of execution.

### "EXPLOSION ON THE IOWA."

Two Guns Burst on the Battle-Ship Iowa. WASHINGTON, Feb. 5.—The following telegram has been received at the Navy Department from Capt. Train, President Board of Inspection and Survey, Fort Monroe, dated yesterday: "While the Iowa was in the harbor testing the battery this morning on the battle-ship Iowa both guns in the starboard forward turret blew off their muzzles. No damage except to guns and one whaleboat. No casualties."

### WEATHER FORECAST.

Forecast for the thirty-six hours ending at 8 P. M. Saturday for New York City and vicinity: Generally fair and warmer to-night; Saturday partly cloudy, followed by rain or snow; winds becoming fresh east to south.

Prominent Orators Use Pico's Cure. It prevents colds and helps the voice. 25c.

## SPECIAL EXTRA.

## POLICE WILL CLOSE GRAND OPERA-HOUSE

Police Commissioner McAdoo, late this evening, called in Police Capt. Cottrell and instructed him to see that no performance is given to-night in the Grand Opera-House. He told the captain to station a sufficient number of policemen at every door to keep the house from being opened.

LATE WINNERS AT NEW ORLEANS. Fifth Race—Lady Greenwood 1, Lythell 2, Truffie Hunter.

### ENDS LIFE AT CHURCH.

Lucian A. Chapin, an insurance agent employed by the New York Life Company, committed suicide this afternoon at the Riverside Baptist Church, Amsterdam Avenue and Ninety-second street. Mr. Chapin lived at No. 214 West Eighty-fifth street and was a regular attendant at the church. He was formerly a well-known hatter.

### GUARDS FOR AMERICANS IN COREA.

WASHINGTON, Feb. 5.—Mr. Allen, the American Minister at Seoul, cables the State Department that he is taking active steps to protect American citizens in the interior of Corea.

### FIRE IN AN ICE PLANT.

The plant of the Hygeia Ice Company at Twelfth Avenue and Forty-ninth street caught fire late this evening. Two alarms were sent in and there was a call for an ambulance. One of the employees was injured.

## CROWD WAITED BUT NO RAID WAS MADE

Police Capt. McGlynn and 12 Plain-Clothes Men Surrounded Private Lodging-House in Harlem.

A crowd of men, women and children, all brought together out of curiosity to find out what Capt. McGlynn, of the West One Hundred and Twenty-fifth street station, and twelve plain-clothes men were going to do this afternoon at the private lodging-house, No. 306 West One Hundred and Twenty-fifth street, created much excitement in Harlem to-day.

Detective Hayes thought he discovered an embryo pool-room in this house and reported to his captain. Then the squad was placed and for several hours the crowd gathered to await the raid which did not take place. In the house Mrs. McGowan, who had been put to bed, found the parlor floor in a condition which aroused her suspicions. Therefore the watch.

### BOY PROTECTED MOTHER.

Objected to Policeman's Treatment of Her and Was Arrested. Margaret McGowan and her son, Michael, of No. 77 Columbus Avenue, were arraigned before Magistrate Barlow in the West Side Court to-day, charged with disorderly conduct. Mrs. McGowan became enraged, said Mrs. Lizzie Mitchell, of the same address, over a matter of rent.

Policeman Burke was called in, and he arrested Mrs. McGowan. The boy Michael did not think the officer was treating his mother with proper consideration, and he objected to the treatment bestowed upon her. He, too, was arrested. Both were discharged.

### FRENCH COUNT ARRESTED.

Admitted to Bail in the Suit of a Brother-in-Law.

Paul Martel de la Chesnaye, who is said to be a French count, was arrested by Deputy Sheriff Terry to-day on an order signed by Justice Davis, of the Supreme Court, in an action brought against him by Claude Sachs, his brother-in-law, to recover \$12,120. The count gave bail and was not taken to jail.

### FOR SAFETY ON THE 'L' ROAD.

Bill Introduced for Additional Guards at Stations.

ALBANY, Feb. 5.—Mr. Sherry to-day introduced a bill requiring that at least one guard should be on the trolley car platform at all times except between 5 and 9 A. M. and 1 and 7 P. M. when there must be at least two.

The bill prohibits turnstiles, either wholly or partly operated by passengers. HAD A FIT IN COMMONS. LONDON, Feb. 5.—Mr. Williams, Liberal Unionist Member of Parliament from South Birmingham and formerly Financial Secretary to the War Office, had an epileptic fit this afternoon in the House of Commons. He was removed to a hospital in a serious condition.

## FELIX BARD IN FRONT; 15 TO 1

Long Shot Shows Way Home in Third Race—Jockey Jenkins Hurt—Lannon, Injured in Race, Is Improving.

### WINNERS AT NEW ORLEANS.

FIRST RACE—Miss Melton (1 to 2) 1. Ralph Young (6 to 1) 2. Trosachs 3.

SECOND RACE—Zyra (9 to 2) 1. Vestry (9 to 5) 2. Sweet Nell 3.

THIRD RACE—Felix Bard (15 to 1) 1. Barkelmors (10 to 1) 2. Lingo 3.

FOURTH RACE—Maimelle (6 to 5) 1. Ethel Scruggs (7 to 1) 2. Inspector Shea 3.

NEW ORLEANS, La., Feb. 5.—Jockey Jenkins, a promising light-weight, was thrown and seriously injured while working a horse at the track this morning. Jenkins was scheduled to ride Felix Bard. The Wizard and Ethel Scruggs to-day.

The track had dried out and was lightning fast, when the weather became threatening. The uncertain weather reduced the attendance to the regular element.

Jockey W. Fisher has left for Memphis to school the short two-year-olds. He will not be seen in the saddle again until Hot Springs opens.

Jockey Gannon is reported greatly improved to-day. Albert Simons had the boy taken to his cottage and called in the best of surgical talent to look after him. The lad sustained a broken collar-bone. He will not be able to ride again this winter.

### FIRST RACE.

Six furlongs. Meeting. Starters, whts. locks. S.H. Fin. Str. P. Miss Melton, 17 1/2, 115 11 1/2 7 1/2 1. Ralph Young, 104, 115 11 1/2 7 1/2 2. Trosachs, 86, 115 11 1/2 7 1/2 3. Vestry, 115, 115 11 1/2 7 1/2 4. Sweet Nell, 110, 115 11 1/2 7 1/2 5. Barkelmors, 110, 115 11 1/2 7 1/2 6. Lingo, 110, 115 11 1/2 7 1/2 7. Ethel Scruggs, 110, 115 11 1/2 7 1/2 8. Inspector Shea, 110, 115 11 1/2 7 1/2 9. Maimelle, 110, 115 11 1/2 7 1/2 10. Felix Bard, 110, 115 11 1/2 7 1/2 11. The Wizard, 110, 115 11 1/2 7 1/2 12. Ethel Scruggs, 110, 115 11 1/2 7 1/2 13. Inspector Shea, 110, 115 11 1/2 7 1/2 14. Maimelle, 110, 115 11 1/2 7 1/2 15. Felix Bard, 110, 115 11 1/2 7 1/2 16. The Wizard, 110, 115 11 1/2 7 1/2 17. Ethel Scruggs, 110, 115 11 1/2 7 1/2 18. Inspector Shea, 110, 115 11 1/2 7 1/2 19. Maimelle, 110, 115 11 1/2 7 1/2 20. Felix Bard, 110, 115 11 1/2 7 1/2 21. The Wizard, 110, 115 11 1/2 7 1/2 22. Ethel Scruggs, 110, 115 11 1/2 7 1/2 23. Inspector Shea, 110, 115 11 1/2 7 1/2 24. Maimelle, 110, 115 11 1/2 7 1/2 25. Felix Bard, 110, 115 11 1/2 7 1/2 26. The Wizard, 110, 115 11 1/2 7 1/2 27. Ethel Scruggs, 110, 115 11 1/2 7 1/2 28. Inspector Shea, 110, 115 11 1/2 7 1/2 29. Maimelle, 110, 115 11 1/2 7 1/2 30. Felix Bard, 110, 115 11 1/2 7 1/2 31. The Wizard, 110, 115 11 1/2 7 1/2 32. Ethel Scruggs, 110, 115 11 1/2 7 1/2 33. Inspector Shea, 110, 115 11 1/2 7 1/2 34. Maimelle, 110, 115 11 1/2 7 1/2 35. Felix Bard, 110, 115 11 1/2 7 1/2 36. The Wizard, 110, 115 11 1/2 7 1/2 37. Ethel Scruggs, 110, 115 11 1/2 7 1/2 38. Inspector Shea, 110, 115 11 1/2 7 1/2 39. Maimelle, 110, 115 11 1/2 7 1/2 40. Felix Bard, 110, 115 11 1/2 7 1/2 41. The Wizard, 110, 115 11 1/2 7 1/2 42. Ethel Scruggs, 110, 115 11 1/2 7 1/2 43. Inspector Shea, 110, 115 11 1/2 7 1/2 44. Maimelle, 110, 115 11 1/2 7 1/2 45. Felix Bard, 110, 115 11 1/2 7 1/2 46. The Wizard, 110, 115 11 1/2 7 1/2 47. Ethel Scruggs, 110, 115 11 1/2 7 1/2 48. Inspector Shea, 110, 115 11 1/2 7 1/2 49. 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Maimelle, 110, 115 11 1/2 7 1/2 175. Felix Bard, 110, 115 11 1/2 7 1/2 176. The Wizard, 110, 115 11 1/2 7 1/2 177. Ethel Scruggs, 110, 115 11 1/2 7 1/2 178. Inspector Shea, 110, 115 11 1/2 7 1/2 179. Maimelle, 110, 115 11 1/2 7 1/2 180. Felix Bard, 110, 115 11 1/2 7 1/2 181. The Wizard, 110, 115 11 1/2 7 1/2 182. Ethel Scruggs, 110, 115 11 1/2 7 1/2 183. Inspector Shea, 110, 115 11 1/2 7 1/2 184. Maim